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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,089

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Arno D. Bruns

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901 NEW YORK AVENUE, NW  
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EXAMINER

PLUCINSKI, JAMISUE A

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

09/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/765,089	<b>Applicant(s)</b> BRUNS, ARNO D.	
	<b>Examiner</b> JAMISUE A. PLUCINSKI	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27, 29, 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/7/08 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-4, 6, 8-15, 17, 19-25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 2004/0225507) in view of Philippe et al. (US 2004/0098316).

4. With respect to Claims 1, 12, 23, 24, 25 and 30: Smith discloses the use of a method, system and a computer readable medium with instructions to configure a processor to perform functions for planning a delivery of at least one good comprising:

a. Receiving a sales order with a description of a good, the location of the good and requested delivery date (Paragraph 0017);

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- b. selecting a source location for the good (Paragraph 0020, Smith discloses determining which supplier is associated with the order, therefore the examiner considers this to be selecting the source location of the good, and discloses ) and an origin of the good/supplier (Paragraph 0030;
  - c. determining a set of trips based on a set of geographic routes, transportation service provider information, and scheduling information (Paragraphs 0024 and 0025, ship schedules from each supplier are received, in order to determine the delivery date. The examiner considers this to be a set of trips);
  - d. selecting a trip from the set of trips based on a set of criteria (Paragraph 0024); and
  - e. scheduling the trip such that the good is scheduled to be delivered from the source location to the destination location substantially close to the requested delivery date (Paragraph 0004 and 0034).
2. Smith discloses selecting a source location for the good which includes the supplier and the good origin, however discloses it is based on the date the goods leave the source, not the availability date of the good at the source location, and does not disclose it is determined independently of the requested delivery date. Philippe discloses the use of displaying a plurality of origins of a good, and displays the availability of the good, i.e. if it is "In Stock" and also discloses the shipping time (See Figure 2C, with corresponding detailed description). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to include the availability date in determining the source location for the goods being independent of the requested delivery date, in order to allow the user to be more informed

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of the options of delivery and allowing a user to view the same item from different source locations (See Philippe, abstract and Page 1).

3. With respect to Claims 2 and 13: Smith discloses determining a set of trips comprises selecting one or more geographic routes from the set of geographic routes (See Table 1, Page 3).

4. With respect to Claims 3 and 14: Smith discloses selecting one or more geographical routes comprises restricting the set of geographical routes based on a geographical classification for the source location and the destination location (Paragraph 0026, Smith discloses using zones, which the examiner consider to be geographic classification).

5. With respect to Claims 4 and 15: Smith discloses determining a set of trips comprises selecting a transportation service provider for each geographic route (Paragraph 0024).

6. With respect to Claims 6 and 17: Smith discloses the set of criteria comprises at least one criterion representative of closeness of a trip delivery date to the requested delivery date (Paragraph 0034).

7. With respect to Claims 8-10 and 19-21: See Philippe, Figure 2C.

8. With respect to Claims 11 and 22: See Paragraph 0034 and 0035.

9. With respect to Claim 29: See Paragraph 0037.

10. With respect to Claim 27: Smithand Phillipe discloses the use of selecting a delivery date, however fails to disclose the customer indicating it is a rush order and scheduling for the rush order. The examiner is taking official notice that the use of Rush orders are well known to one of ordinary skill in the art. This is done when ordering same day service, or rush print jobs, or even when ordering express delivery for commercial carriers, and the rush order delivery date is scheduled there with. If the order is a rush order, Smith discloses planning for order, therefore

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obvious that Smith would plan for rush order. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith and Phillippe, to have the user indicate the order is a rush order and schedule accordingly.

11. Claims 5, 7, 16, 18 and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. and Philippe et al. in further view of Arunapuram et al. (US 2002/0019759).

12. Smith discloses the use of trip schedules, however fails to disclose eliminating the trip schedules or selecting a trip based on dangerous goods or cost information. Arunapuram discloses the use of shipping orders, where a set of trips for a shipping order are set, and a trip is selected based on things such as cost and whether the items are hazardous material (See Arunapuram, abstract and Paragraph 0055). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Smith, to have the optimal trip selected, based on criteria, such as hazardous material and cost, as disclosed by Arunapuram, in order to provide an optimum solution based on the customer's needs (See Arunapuram, abstract and Pages 1 and 7).

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 1-27 and 29-30 have been considered but are moot in view of the new ground(s) of rejection.

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14. With respect to the applicant's assertion that there is no motivation to combine: The examiner has provided motivation to combine in the rejection above. Therefore the examiner considers there to be sufficient motivation to combine the references and rejections stand as stated above.

15. With respect to the Official Notice: The applicant has not stated that the Official notice is in error, i.e. has not stated that the use of rush orders is not old and well known in the art. When combining the references, Smith discloses the planning aspect of the claim, the only thing Smith does not specifically teach is the use of rush order. As the examiner stated indicating something is a rush order is old and well known in the art. Therefore if the order of Smith is a rush order, then Smith would in turn plan for the rush order, due to the fact that Smith plans for the requested delivery date. Therefore Claim 27 is obvious over Smith.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMISUE A. PLUCINSKI whose telephone number is (571)272-6811. The examiner can normally be reached on M-Th (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamisue A. Plucinski/  
Primary Examiner, Art Unit 3629